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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,811	07/31/2001	Joe N. Brown	AUS9200010367US1	4467

7590 03/24/2005
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EXAMINER

FLEURANTIN, JEAN B

ART UNIT	PAPER NUMBER
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2162

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,811

Applicant(s)

BROWN ET AL.

Examiner

JEAN B. FLEURANTIN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 and 36-54 is/are allowed.
- 6) ☒ Claim(s) 14, 15, 18, 19, 21, 22, 25, 26, 28, 29, 32, 33 and 35 is/are rejected.
- 7) ☒ Claim(s) 16, 17, 20, 23, 24, 27, 30, 31 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 36-54 are added.

Claims 1-54 remain pending for examination. And Examiner discusses newly added claims 36-54 in section ii.

Response to Applicant' Remarks

2. Applicant's arguments filed 25 November 2004 have been fully considered but they are not persuasive for the following reasons:

Claim Rejections - 35 USC § 102

- A. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 14, 15, 18, 19, 21, 22, 25, 26, 28, 29, 32, 33 and 35 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent 6,701,464 issued to Austen et al. (hereinafter "Austen").

As per claim 14, Austen discloses, "A method for managing dynamic resource reassignment within a system comprising the steps of determining first missing resources that are missing because of reassignment within said system" (see col. 1, lines 40-47); and

"updating a missing resource List by deleting any of said first missing resources which are included in said missing resource List" (see col. 2, lines 29-34).

As per claim 15, Austen discloses, "where in said determining step comprises: tagging said first missing resources in a system error log which are missing because of reassignment" (see col. 2, lines 29-34).

As per claim 18, Austen discloses, "wherein said dynamic resource reassignment occurs between logical partitions (LPARs) of said system" (see col. 2, lines 10-12).

As per claim 19, Austen discloses, "wherein said missing resources are tagged in response to reassignment from a first one of said LPARs of said system to a second one of said LPARs of said system" (see col. 2, lines 10-13).

As per claim 21, the limitations of claim 21 are rejected in the analysis of claim 14, and this claim is rejected on that basis.

As per claim 22, Austen discloses, "where in said determining step comprises: tagging said first missing resources in a system error log which are missing because of reassignment" (see col. 2, lines 29-34).

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As per claim 25, Austen discloses, "wherein said dynamic resource reassignment occurs between logical partitions (LPARs) of said system" (see col. 2, lines 10-12).

As per claim 26, Austen discloses, "wherein said missing resources are tagged in response to reassignment from a first one of said LPARs of said system to a second one of said LPARs of said system" (see col. 2, lines 10-13).

As per claim 28, in addition to claim 14, Austen discloses, "a central processing unit (CPU) (see col. 3, lines 13-14);

"a random access memory (RAM)" (see col. 3, lines 14-15);

"a read only memory (ROM)" (see col. 2, line 16);

"an I/O adapter; and a bus system coupling said CPUs to said ROM, said I/O adapter, and said RAM" (see col. 2, lines 20-34).

As per claim 29, the limitations of claim 29 are rejected in the analysis of claim 15, and this claim is rejected on that basis.

As per claim 32, the limitations of claim 32 are rejected in the analysis of claim 18, and this claim is rejected on that basis.

As per claim 33, the limitations of claim 33 are rejected in the analysis of claim 26, and this claim is rejected on that basis.

As per claim 35, the limitations of claim 35 are rejected in the analysis of claim 25, and this claim is rejected on that basis.

Allowable Subject Matter

i. Claims 16, 17, 20, 23, 24, 27, 30, 31 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

ii. Claims 1-13 and 36-53 are allowed over the prior art of record.

The following is an examiner's statement of reasons for allowance: With respect to claims 1-13, the claimed features "querying a configuration database in said system for resources identified as missing resources and adding said missing resources to a missing resource List as second missing resources" in conjunction with other elements of the independent claims would not found anticipated or obvious over the prior art made of record.

The dependent claims, being definite, further limiting, and fully enabled by the specification are also allowed.

B. In response to applicant's argument, pages 12, last paragraphs to page 13, first paragraph, that "Nowhere does Austen disclose anything relative to resources." It is submitted that Austen discloses the claimed process begins when one of the event scan

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routine makes a function call to the hypervisor requesting to read new error logs, the hypervisor will check the error log partition for any new unread error logs (see col. 3, lines 1-7).

In response to applicant's argument, pages 13, paragraph 2 to page 14, paragraph 2, that "the rejection of claim 14 under 35 U.S.C. 102(a) as being anticipated by Austen is traversed." However, when read and analyzed in the light of the specification, the invention as claimed does not support applicant's arguments. Moreover, the claims do not capture the essence of the invention as argued in applicant's remark pages 12-17. It is submitted that, Austen discloses "a method for managing dynamic resource reassignment within a system comprising the steps of determining first missing resources that are missing because of reassignment within said system" as provides a method for reporting error logs in a logical partition computer system, in which in response to receiving a request from each of the event scan routines (see col. 1, lines 40-47); and

"updating a missing resource List by deleting any of said first missing resources which are included in said missing resource List" as when the event scan routine reports error logs in the error log partition to the operating system, the event scan routine marks the particular error log as ready for deletion (see col. 2, lines 29-34).

MPEP 2111 Claim Interpretation; Broadest Reasonable Interpretation

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification" Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the

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examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). The court found that applicant was advocating ... the impermissible importation of subject matter from the specification into the claim. See also In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement suit. Rather, the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definition or otherwise that may be afforded by the written description contained in application's specification.").

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

For the above reasons, it is believed that the last Office Action was proper.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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CONTACT INFORMATION


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEAN B. FLEURANTIN whose telephone number is 571 – 272-4035. The examiner can normally be reached on 7:05 to 4:35.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN E BREENE can be reached on 571 – 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-308-6606.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jean Bolte Fleurantin

March 16, 2005


SHAHID ALAM
PRIMARY EXAMINER